

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TRIPOLYMER, INC.,

Plaintiff,

Civil Action No. 17-12236

v.

HONORABLE DENISE PAGE HOOD

FDI ENTERPRISES, INC., et al.,

Defendants.

**ORDER DENYING WITHOUT PREJUDICE
MOTION TO DISMISS FIRST AMENDED COMPLAINT**

Defendants C.P. Chemical, Inc., Walter Hasselman, Jr. and Clare Reinbergen filed a Motion to Dismiss First Amended Complaint on November 14, 2017. However, a Clerk's Entry of Default pursuant to Rule 55(a) of the Rules of Civil Procedure has been entered as to these three Defendants on November 1, 2017. (See Doc. Nos. 26, 27, 28) Once an entry of default has been entered by the Clerk, the party in default cannot answer or otherwise contest liability. See *J&J Sports Prod., Inc. v. Perr's Publ, Inc.*, 2017 WL 4841467 at *3 (E.D. Mich. Oct. 26, 2017) (citing, *VLM Food Trading Int'l, Inc. v. Illinois Trading Co.*, 811 F.3d 247, 255 (7th Cir. 2016)). These Defendants cannot now proceed to contest liability by filing the instant Motion to Dismiss. The Clerk's Entries of Default as to these three Defendants have not been set aside. The Court must deny the Motion to Dismiss at this time.

Accordingly,

IT IS ORDERED that the Motion to Dismiss First Amended Complaint filed by Defendants C.P. Chemical, Inc., Walter Hasselman, Jr. and Clare Reinbergen (**Doc. No. 34**) is DENIED without prejudice. The motion may be refiled if the Clerk's Entries of Default as to these three Defendants are set aside.

S/Denise Page Hood

Denise Page Hood

Chief Judge, United States District Court

Dated: November 16, 2017

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 16, 2017, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager